

**United States Department of the Interior
Bureau of Land Management**

Categorical Exclusion

DOI-BLM-CO-SO50-2014-0003

April 2014

Right-of-Way for an Existing Access Road

Location: Near Cedaredge, Delta County, Colorado

**U.S. Department of the Interior
Bureau of Land Management
Uncompahgre Field Office
2465 South Townsend Avenue
Montrose, CO 81401
Phone: (970) 240-5300**



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CATEGORICAL EXCLUSION

NUMBER: DOI-BLM-CO-S050-2014-0003

CASEFILE: COC-76302

PROJECT NAME: Right-of-Way for an Existing Access Road

PLANNING UNIT: Uncompahgre Basin Resource Management Unit

LEGAL DESCRIPTION: 6th Principal Meridian, Colorado,
T. 13 S., R. 94 W., Sections 12 and 13.

APPLICANT: Preston and Cheryl Lauderbach and John Urban

DESCRIPTION OF PROPOSED ACTION: The proposed action is to issue a right-of-way to the applicants to operate and maintain an existing road that accesses an 80-acre agricultural parcel they recently acquired. The road is located approximately 4 miles northeast of Cedaredge.

The right-of-way would be approximately ½ mile long, 20 feet wide and contain 1.212 acres of public land. No construction work or surface disturbing activities, other than routine maintenance and clearing brush from the road, are anticipated.

The right-of-way would be issued under FLPMA for 30 years with the right of renewal and would be subject to the stipulations in Exhibit A and annual rental.

PLAN CONFORMANCE REVIEW: The Proposed Action is subject to and has been reviewed for conformance with (43 CFR 1610.5, BLM 1617.3) the following plan:

Name of Plan: Uncompahgre Basin Resource Management Unit

Date Approved: July 1989

Decision Number/Page: Management Unit 2: Wildlife habitat, coal, woodlands.
Page 147

Decision Language: All other land uses would be permitted if they would not degrade the areas' winter range capabilities.

CATEGORICAL EXCLUSION REVIEW: The proposed action qualifies as a categorical exclusion under 516 DM 11.9, Number E(16) which allows issuance of rights-of-way for the use of existing facilities, improvements or sites for the same or similar purposes. None of the following exceptions in 516 DM 2, Appendix 2, apply.

Exclusion	YES	NO
1. Have significant adverse effects on public health and safety.	_____	<u>X</u>
2. Have adverse effects on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands, floodplains; national monuments; migratory birds; and other ecologically significant or critical areas.	_____	<u>X</u>
3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources.	_____	<u>X</u>
4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.	_____	<u>X</u>
5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.	_____	<u>X</u>
6. Be directly related to other actions with individually insignificant but cumulatively significant environmental effects.	_____	<u>X</u>
7. Have adverse effects on properties listed, or eligible for listing, in the National Register of Historic Places.	_____	<u>X</u>
8. Have adverse effects on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species.	_____	<u>X</u>
9. Have the potential to violate a Federal law, or a State, local or tribal law or requirement imposed for the protection of the environment.	_____	<u>X</u>
10. Have the potential for a disproportionately high and adverse effect on low income or minority populations.	_____	<u>X</u>
11. Restrict access to and ceremonial use of Indian sacred sites by Indian religious practitioners or adversely affect the physical integrity of such sacred sites.	_____	<u>X</u>
12. Significantly, contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species.	_____	<u>X</u>

INTERDISCIPLINARY REVIEW:

Name	Title	Area of Responsibility
Linda Reed	Realty Specialist	Lands and Realty
Glade Hadden	Archaeologist	Cultural, Native American Religious Concerns
Ken Holsinger	Biologist	T&E and Migratory Birds
Alan Kraus	HazMat Coordinator	Hazardous and Solid Wastes

REMARKS:

Cultural Resources: The proposed ROW was inventoried for cultural resources by the BLM archaeologist on March 31, 2014, with negative results. There are no known or anticipated National Register or otherwise eligible historic properties within the APE of this project. No further work is required.

Native American Religious Concerns: There are none known or anticipated for this project.

Threatened, Endangered Species, and Sensitive:

There are no threatened, endangered, or candidate species to the Endangered Species Act that currently occupy or derive import use of the proposed right-of-way or the surrounding vicinity.

The riparian area adjacent to the right-of-way in the West Fork of Currant Creek is thought to provide habitat for Northern Leopard frogs, however none were observed during the field visit. With no stated desire to improve the road, it is unlikely that Northern Leopard frogs that could be present would be impacted above what may be currently occurring due to the road's presence and use level.

Migratory Birds: The burned out snags, oak brush, and willows offer suitable nesting substrate for several migratory birds of conservation concern (see wildlife report in the project file for species that may utilize the area). Avoiding trimming of vegetation during the nesting season would minimize impacts to nesting species of conservation concern should they be present adjacent to the right-of-way, otherwise impacts from road presence and use are present and ongoing.

Big Game Crucial Winter Range: To protect wintering big game and crucial habitats, no surface disturbing activities shall occur from December 1 through April 30. Exceptions or variances to this restriction will be considered and evaluated according to UFO policies.

NAME OF PREPARER: Linda Reed March 31, 2014

NAME OF ENVIRONMENTAL COORDINATOR: /s/ Bruce Krickbaum
Bruce Krickbaum

DATE: 4-9-14

COMPLIANCE WITH NEPA

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, Number E(16). This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The Proposed Action has been reviewed, and none of the extraordinary circumstances described in 516 DM 2 apply.

SIGNATURE OF AUTHORIZED OFFICIAL: /s/ Barbara Sharrow
Barbara Sharrow,
Uncompahgre Field Office, Field Manager

DATE SIGNED: 4-10-14

STIPULATIONS

1. The holder shall contact the authorized officer at least five days prior to the anticipated start of construction and/or any surface disturbing activities. For emergencies, the holder will contact the BLM as soon as possible after maintenance activities. The authorized officer may require and schedule a preconstruction conference with the holder prior to the holder's commencing construction and/or surface disturbing activities on the right-of-way. The holder and/or his representative shall attend this conference. The holder's contractor, or agents involved with construction and/or any surface disturbing activities associated with the right-of-way, shall also attend this conference to review the stipulations of the grant. The BLM authorized representative is Barney Buria, Environmental Protection Specialist, who can be reached at the Uncompahgre Field Office, 2465 South Townsend, Montrose, Colorado 81401 or phone at (970) 240-5333. An alternate contact is Linda Reed, Realty Specialist, Uncompahgre Field Office, (970) 240-5322.
2. The holder shall construct, operate and maintain the facilities, improvements and structures within this right-of-way in conformance with the terms, conditions and stipulations contained herein. Any relocation, additional construction, or use that is not in accord with the approved conditions shall not be initiated without the prior written approval of the authorized officer. A copy of the complete right-of-way grant, including all plans and stipulations shall be made available at the right-of-way site during construction. Noncompliance with the above will be grounds for an immediate temporary suspension of activities if it constitutes a threat to public health or the environment.
3. Any cultural and/or paleontological resource (historic or prehistoric site or object) discovered by the holder, or any person working on his behalf, on public or Federal land shall be immediately reported to the authorized officer. Holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the authorized officer. An evaluation of the discovery will be made by the authorized officer to determine appropriate actions to prevent the loss of significant cultural or scientific values. The holder will be responsible for the cost of evaluation and any decision as to proper mitigation measures will be made by the authorized officer after consulting with the holder.
4. Pursuant to 43 CFR 10.4(g), the holder of this authorization must notify the authorized officer, by telephone, with written confirmation, immediately upon the discovery of human remains, funerary items, sacred objects, or objects of cultural patrimony. Further, pursuant to 43 CFR 10.4(c) and (d), you must stop activities in the vicinity of the discovery and protect it for 30 days or until notified to proceed by the authorized officer.
5. The holder shall be responsible for noxious weed control within the limits of the right-of-way. The holder shall be responsible for noxious weed control outside the limits of the right-of-way for weeds that can be demonstrated to have initially established within the

right-of-way and have moved outside of the right-of-way due to failure to timely or effectively treat such spreading species. The holder is responsible for consultation with the authorized officer and/or local authorities for acceptable weed control methods (within limits imposed in the grant stipulations) including pesticides/herbicides approved for use on BLM land.

6. Use of pesticides/herbicides shall comply with the applicable Federal and state laws. Pesticides/herbicides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides/herbicides, the holder shall obtain from the authorized officer written approval of the applicant's plan showing the type and quantity of material to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the authorized officer. The plan should be submitted no later than March 1 of any calendar year to cover the proposed activities for the next growing season. Emergency use of pesticides/herbicides shall be approved in writing by the authorized officer prior to such use.
7. The holder shall comply with applicable State standards for public health and safety, environmental protection and siting, construction, operation and maintenance, if these State standards are more stringent than Federal standards for similar projects.
8. The holder shall comply with all applicable Federal laws and regulations existing or hereafter enacted or promulgated regarding toxic substances or hazardous materials. In any event, the holder shall comply with the Toxic Substances Control Act of 1976, as amended (15 U.S.C. 2601, et seq.) with regard to any toxic substances that are used, generated by or stored on the right-of-way or on facilities authorized under this right-of-way grant. (See 40 CFR, Part 702-799 and especially, provisions on polychlorinated biphenyls, 40 CFR 761.1-761.193.) Additionally, any release of toxic substances (leaks, spills, etc.) in excess of the reportable quantity established by 40 CFR, Part 117 shall be reported as required by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, section 102b. A copy of any report required or requested by any federal agency of state government as a result of a reportable release or spill of any toxic substances shall be furnished to the authorized officer concurrent with the filing of the reports to the involved Federal agency of State government.
9. The authorized officer may suspend or terminate in whole, or in part, any construction or maintenance activities, when in his judgment, unforeseen conditions arise which result in the approved terms and conditions being inadequate to protect the public health and safety or to protect the environment.
10. All construction, operation and maintenance shall be within the authorized limits of the right-of-way granted herein.
11. No burning of trash, litter, trees, brush or other vegetative material shall be allowed under this grant.

12. All brush, grasses, and other woody material cleared from the right-of-way shall be removed from the public land and not scattered on site; unless the debris is mulched and used for reclamation as natural materials to enhance surface stability and re-vegetation efforts.
13. No construction or routine maintenance activities shall be performed during periods when the soil is too wet to adequately support such equipment. If the equipment creates ruts in excess of four (4) inches deep, the soil shall be deemed too wet to adequately support the construction equipment. Emergency repairs to restore access are exempt; however, any damages to resources caused by emergency repairs during wet conditions will be repaired as directed by the authorized officer as soon as possible after the occurrence.
14. The holder shall disturb and remove only the minimum amount of soils and vegetation necessary for the operation and maintenance of the access road under this right-of-way. Topsoil shall be conserved during excavation and reused as cover on disturbed areas to facilitate regrowth of vegetation. The holder shall re-contour disturbed areas as necessary by grading to restore the area to approximately the original contour of the ground as directed by the authorized officer.
15. The road is authorized as a minimum standard road. The holder shall maintain the road under this right-of-way in order to provide for reasonable access to the landowners property. Road maintenance shall be performed to minimize erosion along the roadway and adjacent land. Road maintenance shall include, but is not limited to road blading, surfacing as necessary, constructing side ditches, and installation and maintenance of waterbars and culverts, as applicable. If the holder's scope of use exceeds the road standards defined herein, the holder shall apply for an amendment to the right-of-way in order to provide for such an upgrade in road standard, as determined by the authorized officer.
16. The holder shall seed all disturbed areas with the following seed mix. There shall be no primary or secondary noxious weed seed in the seed mixture. In addition, there should be no more than 0.5% total weed seed, less than 2% other seed, and no trash larger than 1/4 inch in length. Seed shall not be stored in burlap bags. Seed going on projects less than 20 acres or less than 200 lbs. shall be tested, and the viability testing of seed shall be done in accordance with State law(s). Seed tests shall be less than one year old and can be from the company's seed test. Seed test documents can be from: a) certified "blue" tag(s); b) an independent seed lab test; or c) a seed lab analysis either by seed lot or by seed mix. Copies of the seed test documents shall be forwarded to the BLM, Uncompahgre Field Office. Commercial seed shall be either certified or registered pure live seed (PLS). The seed container shall be tagged in accordance with State law(s) and available for inspection by the authorized officer. Only State Certified weed free mulch shall be used.

The seed shall be evenly and uniformly planted over any disturbed areas. Seed shall be broadcast and the area shall be raked or chained to cover the seed. The seeding will be repeated until a satisfactory stand is established as determined by the authorized officer. Evaluation of growth will not be made before completion of the second growing season

after seeding. The authorized officer is to be notified a minimum of two days prior to seeding of the project. Seeding shall be completed at a time of optimum soil moisture content, i.e., early spring or the fall.

<u>Seed Mix</u>	<u>Pounds/acre PLS</u>
Western Wheatgrass	4
Indian Ricegrass or Bottlebrush squirreltail	4
Total	8 lbs/acre PLS

17. Prior to termination of the right-of-way, the holder shall contact the authorized officer to arrange a joint inspection of the right-of-way. This inspection will be held to agree to an acceptable termination and rehabilitation plan as necessary. This plan shall include, but is not limited to, removal of facilities, drainage structures, or surface material, recontouring, topsoiling, or seeding. The authorized officer must approve the plan in writing prior to the holder's commencement of any termination activities.
18. **MIGRATORY BIRDS:** Avoiding trimming of vegetation during the nesting season to minimize impacts¹ to nesting bird species of conservation concern should they be present adjacent to the right-of-way. To minimize impacts on migratory bird populations, it is recommended that no surface disturbing² activities occur during the nesting season, from May 15 through July 15. This timeframe encompasses the core breeding season for the majority of migratory birds in the project area. Project activities shall retain and avoid modifying identified cavity trees, snags, and perches in the project area during this time period.
19. **BIG GAME CRUCIAL WINTER RANGE:** To protect wintering big game and crucial habitats, no surface disturbing² activities shall occur from December 1 through April 30. Exceptions or variances to this restriction will be considered and evaluated according to UFO policies³.

¹ The burned out snags, oak brush, and willows offer suitable nesting substrate for several migratory birds of conservation concern (see wildlife report in the project file for species that may utilize the area).

² Surface disturbance- includes, but is not limited to, vegetation clearing/ removal, drilling, dirt work, surface blasting, or similar activities; if it is uncertain whether a particular activity qualifies as surface disturbance, the operator shall consult with the BLM authorized officer prior to implementation.

³ Exceptions and variances to standard restrictions and protection measures must be requested in writing to the BLM authorized officer or BLM biologist. Such requests are evaluated on a case-by-case basis and may be granted by the BLM authorized officer depending on animal or herd status, topographic characteristics, site context, weather severity, and other factors, provided species and habitats are adequately protected. Any modifications to prescribed restrictions, and the rationale behind those decisions, will be documented in the project case file(s). In some cases, site characteristics and/or conditions may warrant expanding buffer distances to ensure adequate protection of species.

**Department of the Interior
Bureau of Land Management
Uncompahgre Field Office
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Montrose, CO 81401**

Decision Record

(DOI-BLM-CO-S050-2014-0003 CX)

PROJECT NAME: Right-of-Way for an Existing Access Road

DECISION: It is my decision to issue a right-of-way to Preston and Cheryl Lauderbach and John Urban to operate and maintain an existing road to access their private property. The road is located approximately 4 miles northeast of Cedaredge.

The right-of-way is approximately ½ mile long, 20 feet wide and contains 1.212 acres on public land. No construction work or surface disturbing activities, other than routine maintenance and clearing brush from the road, are anticipated. The right-of-way will be issued under FLPMA for 30 years with the right of renewal.

MITIGATION MEASURES:

All stipulations shown in Exhibit A of the Categorical Exclusion (CX) will be followed.

RATIONALE:

The Proposed Action is categorically excluded from further documentation under the National Environmental Policy Act (NEPA) in accordance with 516 DM 11.9, Number E(16). This categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The Proposed Action has been reviewed, and none of the extraordinary circumstances described in 516 DM 2 apply.

COMPLIANCE WITH MAJOR LAWS and CONFORMANCE WITH LAND USE PLAN:

The decision is in compliance with applicable laws, regulations and policy, including the Endangered Species Act, Migratory Bird Treaty Act and National Historic Preservation Act. It is also in conformance with the Uncompahgre Basin RMP.

PUBLIC COMMENT:

The BLM informed the public about this project by listing it on the online Uncompahgre NEPA Register and a copy of the completed CX will be posted on the NEPA website.

ADMINISTRATIVE REMEDIES:

If you are adversely affected by this decision, within 30 days of receipt of this decision you have the right of appeal to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR §4.400. This decision goes into effect immediately and will remain in effect pending appeal unless a stay is granted (43 CFR §2801.10).

NAME OF PREPARER: Linda Reed

NAME OF ENVIRONMENTAL COORDINATOR: /s/ Bruce Krickbaum
Bruce Krickbaum

DATE 4-9-14

SIGNATURE OF AUTHORIZED OFFICIAL /s/ Barbara Sharrow
Barbara Sharrow
Field Manager
Uncompahgre Field Office

DATE SIGNED 4-10-14